

Senate File 2316 - Introduced

SENATE FILE 2316
BY COMMITTEE ON REBUILD IOWA

(SUCCESSOR TO SSB 3098)

A BILL FOR

1 An Act relating to flood plain management.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29C.6, subsection 17, Code Supplement
2 2009, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. *c.* For disasters involving flood damage,
4 state participation in funding financial assistance to local
5 government under paragraph "a" is contingent upon a finding
6 by the director of the department of natural resources that
7 the local government has complied with minimum flood plain
8 regulations under sections 455B.276 and 455B.276B and that the
9 local government acted reasonably to avoid or mitigate future
10 flood damage within the two-tenths percent flood plain as
11 defined under section 455B.276A.

12 Sec. 2. NEW SECTION. **455B.197A National pollutant discharge**
13 **elimination system permits — mitigation requirements.**

14 On or after September 30, 2012, in new permits issued under
15 the national pollutant discharge elimination system permit
16 program, the department of natural resources shall require
17 mitigation of soil compaction and replacement of topsoil as
18 part of completing the construction of actions permitted under
19 the program involving one or more acres of land disturbance.

20 Sec. 3. NEW SECTION. **455B.197B Storm water best management**
21 **practices.**

22 By December 31, 2010, the department shall adopt best
23 management practices for storm water. The practices shall
24 limit water runoff, reduce potential future flood damage,
25 assess the effects of stream channelization, and improve
26 watershed management in terms of both water quality and water
27 quantity. All cities shall consider the best management
28 practices in the development and implementation of storm water
29 management ordinances adopted on or after July 1, 2011.

30 Sec. 4. NEW SECTION. **455B.276A Two-tenths percent flood**
31 **plain — model ordinance.**

32 1. By December 31, 2010, the department, in consultation
33 with the rebuild Iowa office, the division of homeland security
34 and emergency management of the department of public defense,
35 the Iowa league of cities, and the Iowa state association of

1 counties, shall develop a model ordinance for the regulation
2 of a two-tenths percent flood plain by political subdivisions.
3 The model ordinance shall address all of the following:

4 a. Requirements, if any, for the purchase of flood insurance
5 for property.

6 b. Requirements, if any, for new development or modification
7 or improvement of existing development to mitigate the effects
8 of future flooding.

9 c. The effect of flood control levees.

10 d. The use of fill and offsets required for the use of fill.

11 e. Categories of development that should be prohibited.

12 f. Interaction with regulations by the federal emergency
13 management agency.

14 g. Any other issues that the department finds should be
15 addressed in the model ordinance.

16 2. For purposes of this section, the two-tenths percent
17 flood plain includes a two-tenths percent flood plain
18 identified on any of the following:

19 a. A flood insurance rate map certified by the federal
20 emergency management agency.

21 b. A flood plain map produced by the department.

22 c. A flood plain map approved by the department pursuant to
23 section 455B.276.

24 **Sec. 5. NEW SECTION. 455B.276B Critical facilities — flood**
25 **plains.**

26 1. For purposes of this section, "*facilities critical for*
27 *the health and safety of the public and the environment*" includes
28 hospitals and health care facilities as defined in section
29 135C.1, jails, water supply and distribution facilities, and
30 emergency operations centers including fire, police, and rescue
31 facilities.

32 2. The department and political subdivisions of the state
33 shall not allow new construction of facilities critical
34 for the health and safety of the public and the environment
35 within a two-tenths percent flood plain, as defined in section

1 455B.276A, unless the department or political subdivision
2 determines that locating the facility outside of the two-tenths
3 percent flood plain is not practicable. This subsection does
4 not apply to the modification or improvement of existing
5 facilities.

6 3. Any construction or substantial modification or
7 improvement of a facility critical for the health and safety
8 of the public and the environment within a two-tenths percent
9 flood plain shall be designed to maintain the operation and
10 function of the facility or the safe cessation of the operation
11 and function of the facility during the occurrence of a
12 two-tenths percent flood as determined by the department or
13 political subdivision. The department or political subdivision
14 may provide a waiver from this requirement if the facility is
15 built in accordance with the requirements of an agreement with
16 the federal emergency management agency.

17 4. Facilities storing public records as defined in chapter
18 22 shall protect those records at a level not less than the
19 level of a two-tenths percent flood plus one foot.

20 5. Facilities storing hazardous substances as defined in
21 section 455B.381 shall store those hazardous substances in
22 a manner that prevents the hazardous substances from being
23 released into the environment during a two-tenths percent
24 flood.

25 Sec. 6. NEW SECTION. 466.10 Hydrological tiling study.

26 The department of agriculture and land stewardship shall
27 conduct a hydrological tiling study in conjunction with
28 hydrology experts from the Iowa flood center and Iowa state
29 university of science and technology to determine the impact
30 tile drainage has on infiltration, surface runoff, and flooding
31 and to evaluate the feasibility of seasonal retention of water
32 in tile drained fields as a drainage management strategy. The
33 impact of potholes, wetlands, and water retention structures
34 shall also be considered in the study.

35 Sec. 7. Section 466B.3, subsection 6, paragraph c, Code

1 Supplement 2009, is amended to read as follows:

2 *c.* The council shall develop recommendations for policies
3 and funding promoting a watershed management approach to
4 reduce the adverse impact of future flooding on this state's
5 residents, businesses, communities, and soil and water quality.
6 ~~Policy and funding recommendations shall be submitted to the~~
7 ~~governor and the general assembly not later than November~~
8 ~~15, 2009.~~ The council shall consider policies and funding
9 options for various strategies to reduce the impact of
10 flooding including but not limited to additional floodplain
11 regulation; wetland protection, restoration, and construction;
12 the promulgation and implementation of statewide storm water
13 management standards; conservation easements and other land
14 management; perennial ground cover and other agricultural
15 conservation practices; pervious pavement, bioswales, and
16 other urban conservation practices; and permanent or temporary
17 water retention structures. In developing recommendations,
18 the council shall consult with hydrological and land use
19 experts, representatives of cities, counties, drainage and
20 levee districts, agricultural interests, and soil and water
21 conservation districts, and other urban and regional planning
22 experts.

23 Sec. 8. Section 466B.3, subsection 6, Code Supplement 2009,
24 is amended by adding the following new paragraph:

25 NEW PARAGRAPH. *d.* The council shall develop recommendations
26 for watershed governance including but not limited to assigning
27 responsibility for assessment of flood risk, assessment and
28 prioritization of options for reducing flood risk, allocation
29 of flood reduction resources, operation of controlled water
30 retention structures, and the purchase of land or easements by
31 cities pursuant to section 364.4. The council shall submit
32 recommendations to the governor and the general assembly not
33 later than November 15, 2010.

34 Sec. 9. Section 466B.4, subsection 2, Code Supplement 2009,
35 is amended to read as follows:

1 2. *Marketing campaign.* The water resources coordinating
2 council shall develop a marketing campaign to educate Iowans
3 about the need to take personal responsibility for the quality
4 and quantity of water in their local watersheds. The emphasis
5 of the campaign shall be that not only is everyone responsible
6 for clean water, but that everyone benefits from it as well,
7 and that everyone is responsible for and benefits from reducing
8 the risk for flooding and mitigating possible future flood
9 damage. The goals of the campaign shall be to convince Iowans
10 to take personal responsibility for clean water and reducing
11 the risk of flooding and to equip them with the tools necessary
12 to effect change through local water quality improvement
13 projects and better flood plain management and flood risk
14 programs.

15 Sec. 10. NEW SECTION. **466B.10 Multipurpose wetlands.**

16 The department of agriculture and land stewardship, in
17 cooperation with the council, shall initiate programs to
18 integrate multipurpose wetlands into watersheds with drainage
19 districts or larger drainage systems and shall prioritize
20 funding for such programs that incorporate a holistic approach.
21 Existing drainage systems shall be retrofitted to provide for
22 nutrient trapping and treatment, more water infiltration and
23 evapotranspiration, greater water runoff retention, and habitat
24 to support biodiversity.

25 Sec. 11. NEW SECTION. **466B.11 Watershed demonstration pilot**
26 **projects.**

27 The department of natural resources and the department of
28 agriculture and land stewardship, in collaboration with the
29 United States department of agriculture's natural resources
30 conservation service and the Iowa flood center established
31 pursuant to section 466C.1, and in cooperation with the
32 council, shall seek funding to plan, implement, and monitor
33 one or more watershed demonstration pilot projects for urban
34 and rural areas involving a twelve-digit hydrologic unit code
35 subwatershed as defined by the United States geological survey.

1 The pilot projects shall include features that seek to do all
2 of the following:

- 3 1. Maximize soil water holding capacity from precipitation.
- 4 2. Minimize severe scour erosion and sand deposition during
5 floods.
- 6 3. Manage water runoff in uplands under saturated soil
7 moisture conditions.
- 8 4. Reduce and mitigate structural and nonstructural flood
9 damage.

10 Sec. 12. NEW SECTION. **466B.12 Flood plain managers.**

11 The council shall encourage and support the formation of
12 a chapter of the association of state flood plain managers
13 in Iowa that would provide a vehicle for local flood
14 plain managers and flood plain planners to further pursue
15 professional educational opportunities.

16 Sec. 13. NEW SECTION. **466B.13 Flood education.**

17 The Iowa state university agricultural extension service,
18 the council, and agency members of the council shall work
19 with flood plain and hydrology experts to educate the general
20 public about flood plains, flood risks, and basic flood plain
21 management principles. This educational effort shall include
22 all of the following:

- 23 1. Developing a statewide soil moisture monitoring network
24 for assessing flood risk through the Iowa water center of Iowa
25 state university of science and technology and the Leopold
26 center for sustainable agriculture established in section
27 266.39, and make extensive use of existing tools and knowledge
28 focused on soil health, specifically the soil conditioning
29 index of the United States department of agriculture's natural
30 resources conservation service as a common metric for improved
31 agronomic and conservation practices.
- 32 2. Developing educational materials and programs in
33 consultation with flood plain experts.
- 34 3. Expanding use of existing integrated farm and land
35 resource management tools to assist planners, landowners,

1 and farmers in planning and creating infiltration systems to
2 accommodate rainfalls of at least one and one-quarter inch and
3 support conservation and business planning.

4 Sec. 14. NEW SECTION. **466B.14 Conservation practice**
5 **criteria.**

6 The department of natural resources and the department
7 of agriculture and land stewardship, in cooperation with
8 the council, shall work with the United States department
9 of agriculture's natural resources conservation service to
10 reassess criteria for soil and water conservation practices
11 as defined in section 161A.42 due to changing precipitation
12 patterns and extreme weather events. This shall include all of
13 the following technical standards and manuals:

14 1. The field office technical guide of the natural resources
15 conservation service for conservation criteria.

16 2. The engineering field manual of the natural resources
17 conservation service for design criteria.

18 Sec. 15. NEW SECTION. **466B.15 Levee policy.**

19 1. It is the policy of the state to give priority to
20 reconnecting streams and rivers to their flood plains through
21 modification or removal of existing levees and to discourage
22 the construction of additional levees except where no other
23 practicable alternative exists for mitigating future flood
24 damage.

25 2. The council, in consultation with local, state, and
26 federal agencies, and private organizations, shall develop an
27 interagency assessment and prioritization process and plan to
28 guide modification and removal of existing levees, including
29 easement and land purchase decisions, other mechanisms for
30 compensating landowners, and other infrastructure management
31 efforts in flood plains.

32 3. The council, in consultation with local, state, and
33 federal agencies, shall develop criteria to prioritize
34 investments in the construction and improvement of levees in
35 situations where no other practicable alternative exists for

1 mitigating future flood damage.

2 EXPLANATION

3 This bill relates to flood plain management.

4 The bill provides that, for disasters involving flood
5 damage, state participation in funding financial assistance to
6 local government is contingent on a finding by the director of
7 the department of natural resources that the local government
8 has complied with minimum flood plain regulations and that the
9 local government acted reasonably to avoid or mitigate future
10 flood damage within the two-tenths percent flood plain.

11 The bill provides that, on or after September 30, 2012,
12 in new permits issued under the national pollutant discharge
13 elimination system permit program, the department of natural
14 resources shall require mitigation of soil compaction and
15 replacement of topsoil as part of completing the construction
16 of actions permitted under the program involving one or more
17 acres of land disturbance.

18 The bill requires the department of natural resources to
19 adopt best management practices for storm water by December 31,
20 2010.

21 The bill requires, by December 31, 2010, the department
22 of natural resources, in consultation with various listed
23 entities, to develop a model ordinance for the regulation of a
24 two-tenths percent flood plain by political subdivisions.

25 The bill prohibits the department of natural resources
26 and political subdivisions from allowing new construction
27 of facilities critical for the health and safety of the
28 public and the environment within a two-tenths percent flood
29 plain, unless locating the facility outside the two-tenths
30 percent flood plain is not practicable. The bill requires any
31 construction or substantial modification or improvement of a
32 facility critical for the health and safety of the public and
33 the environment within a two-tenths percent flood plain to be
34 designed to maintain the operation and function of the facility
35 or the safe cessation of the operation or function during the

1 occurrence of a two-tenths percent flood. The bill requires
2 facilities storing public records to protect such records at
3 a level not less than the level of a two-tenths percent flood
4 plus one foot. The bill requires facilities storing hazardous
5 substances to store such substances in a manner that prevents
6 the substances from being released into the environment during
7 a two-tenths percent flood.

8 The bill requires the department of agriculture and land
9 stewardship in conjunction with hydrology experts from the
10 Iowa flood center and Iowa state university to conduct a
11 hydrological tiling study.

12 The bill requires the water resources coordinating council
13 to develop recommendations for watershed governance by November
14 15, 2010.

15 Currently, the water resources coordinating council is
16 required to develop a marketing campaign to educate Iowans
17 regarding water quality and watersheds. The bill provides that
18 the campaign must also include information regarding reducing
19 the risk of flooding and mitigating possible future flood
20 damage.

21 The bill requires the department of agriculture and
22 land stewardship, in cooperation with the water resources
23 coordinating council, to initiate programs to integrate
24 multipurpose wetlands into watersheds with drainage districts
25 or larger drainage systems and shall prioritize funding for
26 such programs that incorporate a holistic approach.

27 The bill requires the department of natural resources
28 and the department of agriculture and land stewardship, in
29 collaboration with the U.S. natural resources conservation
30 service and the Iowa flood center, and in cooperation with the
31 water resources coordinating council, to seek funding to plan,
32 implement, and monitor one or more watershed demonstration
33 pilot projects for urban and rural areas involving a
34 twelve-digit hydrologic unit code subwatershed as defined by
35 the U.S. geological survey.

1 The bill requires the water resources coordinating council
2 to encourage and support the formation of a chapter of the
3 association of state flood plain managers in Iowa.

4 The bill requires the Iowa state university agricultural
5 extension service, the water resources coordinating council,
6 and agency members of the council to work with flood plain
7 and hydrology experts to educate the general public about
8 flood plains, flood risks, and basic flood plain management
9 principles.

10 The bill requires the department of natural resources
11 and the department of agriculture and land stewardship, in
12 cooperation with the water resources coordinating council, to
13 work with the U.S. natural resources conservation service to
14 reassess criteria for soil and water conservation practices due
15 to changing precipitation patterns and extreme weather events.

16 The bill requires the water resources coordinating council
17 to develop an interagency assessment and prioritization process
18 and plan to guide modification and removal of existing levees.
19 The bill requires the council to develop criteria to prioritize
20 investments in the construction and improvement of levees in
21 situations where no other practicable alternative exists for
22 mitigating future flood damage.